

United States Courts
Southern District of Texas
FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FEB 01 2017

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

vs.

ANDREW CRAIG SUSTAITA
Defendant.

§
§
§

CRIMINAL NO.

17 CR 65

CRIMINAL INDICTMENT

THE GRAND JURY CHARGES THAT:



INTRODUCTION

At all times material to this Indictment:

1. The term "minor" is defined, pursuant to Title 18, United States Code, Section 2256(1), as "any person under the age of eighteen years."

2. The term "child pornography", for purposes of this Indictment, is defined, pursuant to Title 18, United States Code, Section 2256(8)(A), as:

"any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where -

(A) the production of such visual depiction involves the use of a minor engaged in sexually explicit conduct".

3. The term "sexually explicit conduct" is defined, pursuant to Title 18, United States Code, Section 2256(2)(A), as any:

"actual or simulated -

- (i) sexual intercourse, including genital [to] genital, oral [to] genital, anal [to] genital, or oral [to] anal, whether between persons of the same or opposite sex; [or]
- (ii) bestiality; [or]
- (iii) masturbation; [or]
- (iv) sadistic or masochistic abuse; or
- (v) [the] lascivious exhibition of the genitals or pubic area of any person."

4. The term "computer" is defined, pursuant to Title 18, United States Code, Sections 2256(6) and 1030(e)(1), as any:

"electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator or other similar device."

5. The term "producing" is defined, pursuant to Title 18, United States Code, Section 2256(3) and case law, as:

"producing, directing, manufacturing, issuing, publishing or advertising," and includes downloading images from another source, buy using materials, including a computer or parts thereof.

6. The term "visual depiction" is defined, pursuant to Title 18, United States Code, Section 2256(5), as including, but is not limited to, any:

"undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image."

COUNT ONE
(Sexual Exploitation of Children)

From on or about January 1, 2013, through on or about January 8, 2017, within the Southern District of Texas,

ANDREW CRAIG SUSTAITA,

defendant herein, did employ, use, persuade, induce, entice and coerce and attempt to employ, use, persuade, induce, entice and coerce a minor child, to wit: Minor Victim #1, to engage in any sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and such visual depiction was transmitted using any means and facility of interstate or foreign commerce, and the visual depiction was produced using materials that had been mailed, shipped and transported in or affecting interstate and foreign commerce.

In violation of Title 18, United States Code, Section 2251(a) & (e).

COUNT TWO
(Possession of Child Pornography)

On or about January 9, 2017, within the Southern District of Texas,

ANDREW CRAIG SUSTAITA,

defendant herein, did knowingly possess a computer and external hard drive that contained multiple images and videos of child pornography, which had been mailed or shipped and transported using any means and facility of interstate or foreign commerce or in or affecting interstate and foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, shipped, and transported in or affecting interstate and foreign commerce, by any means, including by computer or other digital media; more specifically, a silver HP laptop and a

Seagate 1 Terabyte external hard drive which contained images and videos of child pornography.

All in violation of Title 18, United States Code, Sections 2252A(a)(5)(B) and 2252A(b)(2).

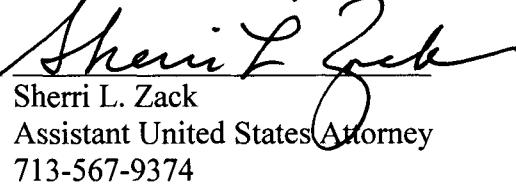
A True Bill:

Original signature on File


Grand Jury Foreperson

KENNETH MAGIDSON
United States Attorney

By:


Sherri L. Zack
Assistant United States Attorney
713-567-9374